

REMARKS

Claims 1 through 17 were pending in this application. In response to the Office Action dated October 24, 2003, claims 2-13 and 15 have been canceled and claims 1, 14, 16 and 17 have been amended. Support for the amendment to claim 1 is found in the originally filed dependent claims. The dependencies of claims 14, 16 and 17 have been amended in view of the cancellation of claims 2-15. New claim 18 has been added and includes the limitations of claim 17 which was indicated as allowable, together with the limitations of claims 1 and 2. Care has been exercised to avoid the introduction of new matter. Indeed, adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure. Applicants submit that the present Amendment does not generate any new matter issue.

The Examiner objected to the drawings under 37 CFR 1.83(a) as allegedly failing to disclose the "pitch length of the grooved spacer being twice as large as the predetermined pitch length" as described in the specification on page 5. Applicants respectfully traverse. Figure 7 has been amended to illustrate the pitch length of the grooved spacer as being twice as large as the predetermined pitch length. The predetermined pitch length is the length from S₁ to S₂ and the pitch length of the grooved spacer is twice as large as the predetermined pitch length, i.e. the length between S₁ to S₃. The original specification at page 5 provides the support for the drawing amendment, but has been amended to further clarify the reversing point S₃. Thus, one of ordinary skill in the art would have no difficulty understanding this illustrated structural detail. Accordingly, the Examiner is requested to reconsider and withdraw the objection.

Claims 3, 5-9 and 15-17 were rejected under 35 U.S.C. § 112, second paragraph. The Examiner asserted that it was unclear how the spacer of claim 3 can be simultaneously linear

lengthwise and twisted spirally. Applicants respectfully traverse. Claim 3 has been canceled and, therefore, the rejection is moot. The dependencies of claims 5, 7, 15 and 17 have been amended to depend from claim 2. Accordingly, the Examiner is requested to reconsider and withdraw the rejection.

Claims 1, 4 and 10-11 were rejected under 35 U.S.C. § 102(b) as being anticipated by Wagman et al. (U.S. Pat. No. 5,517,591, hereinafter "Wagman"). Further, claims 2 and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wagman in view of Eoll (U.S. Pat. No. 5,651,082). The Examiner referred to Figures 1-2 and 4 and the accompanying specification of Wagman, asserting the disclosure of an optical cable corresponding to that defined in claims 1, 4 and 10-11. Applicants respectfully traverse the rejections for the reasons stated below.

Independent claim 1 describes an optical cable comprising a central member. The central member is a grooved spacer having at least one SZ-shaped groove twisted around the central member spirally. Each groove is spirally formed so as to reverse its direction at a predetermined pitch length and each groove is substantially square in cross section and holding an optical fiber ribbon or a stack of a plurality of optical fiber ribbons within the groove. A twisting pitch length of said optical fiber ribbon or said stack of a plurality of optical fiber ribbons is equal to or shorter than a pitch length of the grooved spacer, said pitch length of the grooved spacer being twice as large as the predetermined pitch length.

Applicants submit that Wagman does not disclose an optical cable comprising, *inter alia*, a twisting pitch length of the optical fiber ribbon or the stack of a plurality of optical fiber ribbons that is equal to or shorter than a pitch length of the grooved spacer, wherein the pitch length of the grooved spacer is twice as large as the predetermined pitch length, as required by claim 1 (amended). Support for this limitation is found in dependent claim 13 (now canceled). Applicants

note that the Examiner indicated that dependent claims 13 would be allowable if recast in independent form. Applicants submit that claim 1, as currently amended, is free from the applied art.

Moreover, Eoll does not remedy the deficiencies of Wagman. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge readily available to one of ordinary skill in the art. *In re Kotzab*, 217 F.3d 1365, 1370 55 USPQ2d 1313, 1317 (Fed. Cir. 2000); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992); *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Eoll fails to teach or remotely suggest a twisting pitch length of the optical fiber ribbon or the stack of a plurality of optical fiber ribbons that is equal to or shorter than a pitch length of the grooved spacer, wherein the pitch length of the grooved spacer is twice as large as the predetermined pitch length, as required by claim 1 (amended). Thus, even if combined the applied references fail to teach or suggest the optical cable of present claim 1. Accordingly, the rejections under 35 U.S.C. §§ 102 and 103 are not legally viable and should be withdrawn.

Moreover, independent claim 18 has been added to include the limitations of claim 17, together with the limitations of intervening claim 2 and base claim 1. The Examiner objected to claim 17 and indicated that the claim was allowable if rewritten in independent form. Accordingly, claim 18 is in condition for allowance.

It is believed that all pending claims are now in condition for allowance. Applicants therefore respectfully request an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an

09/505,989

Examiner's amendment, the Examiner is invited to call Applicants' representative at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT, WILL & EMERY

BK Seidleck *By MJS*
Brian K. Seidleck
Registration No. 51,321

HZ6,106

600 13th Street, N.W.
Washington, DC 20005-3096
(202) 756-8000 BKS:apr
Facsimile: (202) 756-8087
Date: February 24, 2004